

## Fishery Conservation and Management

## § 660.312

EFFECTIVE DATE NOTE: At 72 FR 50910, Sept. 5, 2007, § 660.306 was amended by redesignating paragraph (f)(6) as (f)(7), and paragraph(b)(4) and a new (f)(6) were added, effective Oct. 5, 2007. For the convenience of the user, the added text is set forth as follows:

### § 660.306 Prohibitions.

\* \* \* \*

(b) \* \* \*

(4) Fail to comply with all requirements at § 660.303 (d); including failure to submit information, submission of inaccurate information, or intentionally submitting false information on any report required at § 660.303 (d) when participating in the Pacific whiting shoreside fishery.

\* \* \* \*

(f) \* \* \*

(6) *Pacific whiting shoreside first receivers.*

(i) [Reserved]

(ii) Fail to sort fish received from a Pacific whiting shoreside vessel prior to first weighing after offloading as specified at § 660.370 (h)(6)(iii) for the Pacific whiting fishery.

(iii) Process, sell, or discard any groundfish received from a Pacific whiting shoreside vessel that has not been weighed on a scale that is in compliance with requirements at § 660.373 (j)(1)(i) and accounted for on an electronic fish ticket with the identification number for the Pacific whiting shoreside vessel that delivered the fish.

(iv) Fail to weigh fish landed from a Pacific whiting shoreside vessel prior to transporting any fish from that landing away from the point of landing.

\* \* \* \*

### § 660.312 Vessel Monitoring System (VMS) requirements.

(a) *What is a VMS?* A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.

(b) *Who is required to have VMS?* A vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes in state or Federal water seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California is required to install a NMFS OLE type-approved mobile transceiver

unit and to arrange for an NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE, prior to fishing.

(c) *How are mobile transceiver units and communications service providers approved by NMFS OLE?* (1) NMFS OLE will publish type-approval specifications for VMS components in the FEDERAL REGISTER or notify the public through other appropriate media.

(2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.

(3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the FEDERAL REGISTER or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the FEDERAL REGISTER or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS, as required at 660.335(a)(2).

(d) *What are the vessel owner's responsibilities?* If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may get a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206) 526-6133.

(2) Activate the mobile transceiver unit, submit an activation report, and receive confirmation from NMFS OLE that the VMS transmissions are being

received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS OLE, Northwest VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115–6349, phone: (206)526–6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may participate in a fishery requiring the VMS.

(i) *Activation reports.* If you are a vessel owner who must use VMS and you are activating a VMS transceiver unit for the first time or reactivating a VMS transceiver unit following a reinstallation of a mobile transceiver unit or change in service provider, you must fax NMFS OLE an activation report that includes: Vessel name; vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; if applicable, the groundfish permit number the vessel is registered to; VMS transceiver unit manufacturer; VMS communications service provider; VMS transceiver identification; identifying if the unit is the primary or backup; and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by NMFS OLE.

(ii) Ownership of the VMS transceiver unit may be transferred from one vessel to another vessel by submitting a new activation report, which identifies that the transceiver unit was previously registered to another vessel, and by providing proof of ownership of the VMS transceiver unit or proof of service termination from the communication service provider.

(3) Operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year, unless such vessel is exempted under paragraph (d)(4) of this section.

(4) *VMS exemptions.* A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(iii) of this section, is

received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section.

(i) *Haul out exemption.* When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

(ii) *Outside areas exemption.* When the vessel will be operating seaward of the EEZ off Washington, Oregon, or California continuously for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, the VMS mobile transceiver unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of Washington, Oregon or California until the time that the vessel re-enters the EEZ off the coasts of Washington, Oregon or California. Under this exemption, the vessel owner or operator can request that NMFS OLE reduce or discontinue the VMS transmissions after receipt of an exemption report, if the vessel is equipped with a VMS transceiver unit that NMFS OLE has approved for this exemption.

(iii) Exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the FEDERAL REGISTER. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at 660.335(a)(2). Owners of vessels registered to limited entry permits that did not receive instructions by mail are

## Fishery Conservation and Management

## § 660.314

responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Standard Time).

(iv) Exemption reports must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraph (d)(4)(i) and (ii) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption or at least 2 hours before the vessel is placed back in the water following a haul out exemption.

(5) When aware that transmission of automatic position reports has been interrupted, or when notified by NMFS OLE that automatic position reports are not being received, contact NMFS OLE at 7600 Sand Point Way NE, Seattle, WA 98115-6349, phone: (206)526-6133 and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating to a location designated by NMFS OLE the vessel's position or returning to port until the VMS is operable.

(6) After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the mobile transceiver unit prior to the vessel's next fishing trip. Repair or reinstallation of a mobile transceiver unit or installation of a replacement, including change of communications service provider shall be in accordance with the instructions provided by NMFS OLE and require the same certification.

(7) Make the mobile transceiver units available for inspection by NMFS OLE personnel, USCG personnel, state enforcement personnel or any authorized officer.

(8) Ensure that the mobile transceiver unit is not tampered with, disabled, destroyed or operated improperly.

(9) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS transceiver units.

[68 FR 62384, Nov. 4, 2003. Redesignated and amended at 69 FR 42350, July 15, 2004]

### § 660.314 Groundfish observer program.

(a) *General.* Vessel owners, operators, and managers are jointly and severally responsible for their vessel's compliance with this section.

(b) *Purpose.* The purpose of the Groundfish Observer Program is to allow observers to collect fisheries data deemed by the Northwest Regional Administrator, NMFS, to be necessary and appropriate for management, compliance monitoring, and research in the groundfish fisheries and for the conservation of living marine resources and their habitat.

(c) *Observer coverage requirements—*(1) *At-sea processors.* A catcher-processor or mothership 125 ft (38.1 m) LOA or longer must carry two NMFS-certified observers, and a catcher-processor or mothership shorter than 125 ft (38.1 m) LOA must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

(2) *Catcher vessels.* When NMFS notifies the owner, operator, permit holder, or the manager of a catcher vessel of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.

(i) For the purposes of this section, the term "catcher vessel" includes all of the following vessels (except vessels described in paragraphs (c)(1) and (c)(3) of this section):

(A) Any vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes off the States of Washington, Oregon, or California seaward of the baseline from which the territorial sea of the United States is measured out to the seaward edge of the EEZ (*i.e.*, 0–200 nm offshore).

(B) Any vessel other than a vessel described in paragraph (c)(2)(i)(A) of this section that is used to take and retain, possess, or land groundfish in or from the EEZ.